

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

8 MANUEL TARANGO, JR.,)
9 Petitioner,) Case No. 3:10-CV-00146-RCJ-VPC
10 vs.)
11 E.K. McDANIEL,) ORDER
12 Respondent.)

13 This is an action on a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 brought
14 by Manuel Tarango, Jr. with the assistance of counsel. Before the Court is the petitioner's motion for
15 certificate of appealability (ECF No. 35).

In order to proceed with an appeal from this court, petitioner must receive a certificate of appealability. 28 U.S.C. § 2253(c)(1). Generally, a petitioner must make “a substantial showing of the denial of a constitutional right” to warrant a certificate of appealability. *Id.* The Supreme Court has held that a petitioner “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

21 The Supreme Court further illuminated the standard for issuance of a certificate of appealability
22 in *Miller-El v. Cockrell*, 537 U.S. 322 (2003). The Court stated in that case:

We do not require petitioner to prove, before the issuance of a COA, that some jurists would grant the petition for habeas corpus. Indeed, a claim can be debatable even though every jurist of reason might agree, after the COA has been granted and the case has received full consideration, that petitioner will not prevail. As we stated in *Slack*, “[w]here a district court has rejected the constitutional claims on the merits, the showing required to satisfy § 2253(c) is straightforward: The petitioner must demonstrate

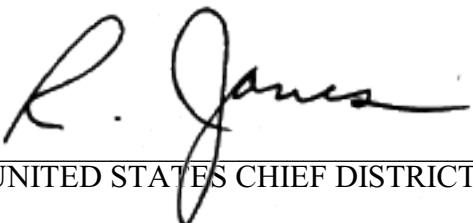
1 that reasonable jurists would find the district court's assessment of the
2 constitutional claims debatable or wrong."

3 *Id.* at 1040 (quoting *Slack*, 529 U.S. at 484).

4 The Court has considered the issues raised by petitioner, with respect to whether they satisfy the
5 standard for issuance of a certificate of appeal, and the Court determines that Ground One of the
6 Amended Petition related to jury tampering may be debatable among reasonable jurists or warrants
7 further review.

8 **IT IS THEREFORE ORDERED** that petitioner's motion for certificate of appealability (ECF
9 No. 35) is **GRANTED** as to Ground One of the Amended Petition.

10 Dated this 16th day of October, 2013.



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13 UNITED STATES CHIEF DISTRICT JUDGE
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